

DEPARTMENT OF INDUSTRIAL RELATIONS
OFFICE OF THE DIRECTOR
P.O. Box 420603
San Francisco, CA 94142



June 3, 1996

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Robin Chandler Carr, Esq.
Lambert & Rogers
164 W. Park Avenue
El Cajon, CA 92020-3599

RE: Public Works Case No. 96-002
Brawley Airport Hangar Project

Dear Ms. Carr:

This constitutes the determination of the Director of Industrial Relations regarding coverage of the above-referenced project under the California public works laws, and is made pursuant to California Code of Regulations (C.C.R.) section 16001(a). Based upon my review of the documents submitted, and an analysis of the relevant facts as presented, I have determined that the Brawley Airport Hangar Project is a "public works" within the meaning of Labor Code section 1720(a).

In this case, Lesicka Construction, Inc. ("Lesicka") will construct three executive aircraft hangar buildings at the Brawley Municipal Airport under a contract with Municipal Leasing Services, Inc. ("MLS"). Before the start of construction, the City of Brawley ("City") must agree to lease land to Lesicka for the duration of construction and must agree to lease and purchase the hangars from MLS upon the completion of construction.

Under the ground lease, the City agrees to lease land at the airport to Lesicka for \$1.00. This lease will expire when a lease/purchase agreement is signed between the City and MLS. Under the terms of the lease/purchase agreement, the City will make monthly payments to MLS for an agreed upon period, after which the City will own the hangars. The City can select from one of the two following payment periods proposed by MLS: 84 monthly payments of \$4,950.40 each or 120 monthly payments of \$3,773.80 each.

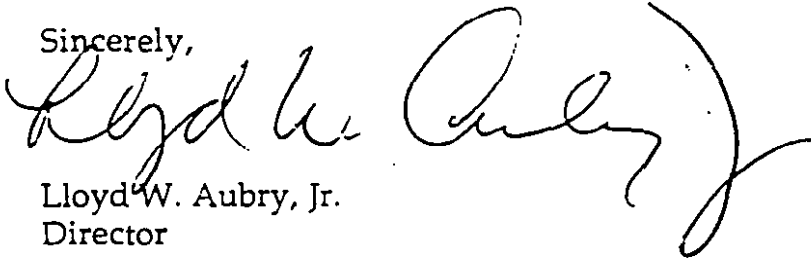
During the period of the lease/purchase agreement, the City will hold title to the hangars and will grant a security interest to MLS. In addition, the City will be responsible for the use, possession, operation and repair of the hangars including taxes, maintenance and insurance. At the end of the period, the City will own the hangars and, at any time during the period, the City can purchase the hangars by paying the balance due on the lease.

Letter to Robin Chandler Carr
Re: PW Case No. 96-002, Brawley Airport Hangar Project
June 3, 1996
Page 2

Labor Code section 1720(a) generally defines "public works" as: "Construction, alteration, demolition or repair work done under contract and paid for in whole or part out of public funds." The construction of the Brawley airport hangars meets all of the Section 1720(a) elements. It is construction done under contract. The financing arrangement, whereby the City makes "lease" payments to MLS from its general fund¹, and during which payment period it holds title and then owns outright the hangars, represents the payment of public funds for the construction of the hangars. Consistent with previous determinations², this project is a "public works."

I hope this determination satisfactorily answers your inquiry.

Sincerely,



Lloyd W. Aubry, Jr.
Director

cc: John Duncan, Chief Deputy Director
Roberta Mendonca, Labor Commissioner
Dorothy Vuksich, Chief, DLSR
Rulon Cottrell, Chief, DAS
Vanessa L. Holton, Assistant Chief Counsel

¹ Under either payment period option, the City's total payment reimburses MLS for the \$320,000 cost of the hangars construction.

² City of Redlands/Honeywell Corporation, PW #92-029 (5/31/94).